

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-NINTH LEGISLATURE

FORTIETH LEGISLATIVE DAY
FRIDAY, FEBRUARY 16, 2007

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senators Cameron, Darrington, Langhorst, Lodge, Pearce, and Stegner, absent and excused.

Prayer was offered by Chaplain Goebel.

The Pledge of Allegiance was led by Bethany Romney, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 15, 2007, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator Lodge was recorded present at this order of business.

February 16, 2007

The JUDICIARY AND RULES Committee reports that **S 1159**, **S 1160**, and **S 1161** have been correctly printed.

DARRINGTON, Chairman

S 1159, **S 1160**, and **S 1161** were referred to the Judiciary and Rules Committee.

February 15, 2007

The COMMERCE AND HUMAN RESOURCES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

William "Bill" Deal to the Public Employee Retirement System of Idaho Board, term to expire July 1, 2008.

ANDREASON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 15, 2007

The HEALTH AND WELFARE Committee reports out **S 1103** with the recommendation that it do pass.

LODGE, Chairman

S 1103 was filed for second reading.

February 15, 2007

The COMMERCE AND HUMAN RESOURCES Committee reports out **S 1106** and **S 1105** with the recommendation that they do pass.

ANDREASON, Chairman

S 1106 and **S 1105** were filed for second reading.

February 15, 2007

The COMMERCE AND HUMAN RESOURCES Committee reports out **S 1030** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

ANDREASON, Chairman

There being no objection, **S 1030** was referred to the Fourteenth Order of Business, General Calendar.

February 16, 2007

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

Lois Bauer to the Idaho Commission on Aging, term to expire at the pleasure of the Governor;

Mack Redford to the Public Utilities Commission, term to expire January 9, 2013;

James M. "Dyke" Nally as Superintendent of the Idaho State Liquor Dispensary, term to expire at the pleasure of the Governor.

McKENZIE, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 16, 2007

The STATE AFFAIRS Committee reports out **H 61** with the recommendation that it do pass.

McKENZIE, Chairman

H 61 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

February 14, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Moscelene Sunderland of Boise, Idaho, was appointed as a member of the Idaho Sexual Offender Classification Board to serve a term commencing January 1, 2007, and expiring January 1, 2013.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Judiciary and Rules Committee.

February 15, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that C. Kelly Pearce of Boise, Idaho, was appointed as Administrator of the Division of Building Safety to serve a term commencing January 16, 2007, and continuing at the pleasure of the Governor.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the State Affairs Committee.

February 15, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that G. Jerry Russell of Meridian, Idaho, was appointed as Director of the Idaho State Police to serve a term commencing January 19, 2007, and continuing at the pleasure of the Governor.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Judiciary and Rules Committee.

The Senate advanced to the Ninth Order of Business.

Messages from the House

February 15, 2007

Mr. President:

I transmit herewith **H 130, H 78, H 60, H 58, and H 85** which have passed the House.

JUKER, Chief Clerk

H 130, H 78, H 60, H 58, and H 85 were filed for first reading.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senators Darrington, Pearce, and Stegner were recorded present at this order of business.

The President Pro Tempore announced the Resources and Environment Committee report relative to the Gubernatorial appointment of Toni Hardesty was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Coiner, seconded by Senator Kelly, the Gubernatorial appointment of Toni Hardesty as Director of the Department of Environmental Quality was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President Pro Tempore announced the State Affairs Committee report relative to the Gubernatorial appointment of Roy E. Decker was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Davis, seconded by Senator Malapeai, the Gubernatorial appointment of Roy E. Decker as a member of the Bingo-Raffle Advisory Board was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading, and Reference of Bills,
House Petitions, Resolutions, and Memorials**

**S 1162
BY STATE AFFAIRS COMMITTEE
AN ACT**

RELATING TO ANNEXATION OF ADJACENT TERRITORY BY CITIES; REPEALING SECTION 50-222, IDAHO CODE, RELATING TO ANNEXATION BY CITIES; AND AMENDING CHAPTER 2, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-222, IDAHO CODE, TO PROVIDE FOR ANNEXATION OF ADJACENT TERRITORY, TO PROVIDE FOR CONTENT OF ALL ANNEXATION PROPOSALS, TO PROVIDE FOR VOLUNTARY ANNEXATION OR ANNEXATION BY REQUEST, TO PROVIDE FOR INVOLUNTARY ANNEXATION OR ANNEXATION BY FORCE, TO PROVIDE FOR ANNEXATION OF RAILROAD RIGHT-OF-WAY PROPERTY UNDER CERTAIN CONDITIONS, TO PRECLUDE ANNEXATION OF PROPERTY USED AS A FAIRGROUNDS AREA UNLESS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS AND TO PRECLUDE ANNEXATION OF CERTAIN PROPERTY OWNED BY A NONGOVERNMENTAL ENTITY USED TO PROVIDE OUTDOOR RECREATIONAL ACTIVITIES TO THE PUBLIC UNLESS EXPRESS WRITTEN PERMISSION IS GIVEN BY THE NONGOVERNMENTAL ENTITY.

S 1162 was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 130, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

H 78, H 60, and H 58, by Agricultural Affairs Committee, were introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

H 85, by Resources and Conservation, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1086, by Resources and Environment Committee, was read the second time at length and filed for third reading.

S 1056, by Local Government and Taxation Committee, was read the second time at length and filed for third reading.

S 1085, by State Affairs Committee, was read the second time at length and filed for third reading.

S 1096 and S 1102, by Health and Welfare Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

Senators Cameron and Langhorst were recorded present at this order of business.

H 33, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Little arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Keough, Little, Lodge, McGee, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner. Total - 29.

NAYS--Kelly, Langhorst, Malepeai, McKague, Stennett, Werk. Total - 6.

Total - 35.

Whereupon the President Pro Tempore declared **H 33** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Burkett, granted by unanimous consent, **H 20** was referred to the Fourteenth Order of Business, General Calendar.

S 1064 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 35.

Whereupon the President Pro Tempore declared **S 1064** passed, title was approved, and the bill ordered transmitted to the House.

H 30 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 35.

Whereupon the President Pro Tempore declared **H 30** passed, title was approved, and the bill ordered returned to the House.

S 1084 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 35.

Whereupon the President Pro Tempore declared **S 1084** passed, title was approved, and the bill ordered transmitted to the House.

The Senate advanced to the Fourteenth Order of Business.

General Calendar

The President Pro Tempore declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President Pro Tempore called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out **S 1082**, **H 54**, and **S 1079**, without recommendation, amended as follows:

SENATE AMENDMENT TO S 1082

AMENDMENT TO SECTION 3

On page 1 of the printed bill, in line 39, following "who" insert: "knowingly".

AMENDMENTS TO SECTION 5

On page 2, in line 40, delete "are confidential" and insert: "shall be closed"; and on page 4, delete line 16 and insert: "(iv) The court order".

SENATE AMENDMENT TO H 54

AMENDMENTS TO SECTION 1

On page 2 of the printed bill, delete lines 10 through 13 and insert:

"(6) ~~Is~~ Has been adjudged by a court of competent jurisdiction to be an habitual drunkard; or is addicted to the use of narcotic drugs, and such order has been received by the department.

(7) Has previously been adjudged by a licensed physician or by a court of competent jurisdiction to be afflicted with or suffering from any mental disability or disease incompetence that would affect the person's ability to safely operate a motor vehicle and who has not at the time of application been restored to competency by the methods provided by law, and such order has been received by the department."; in line 14, delete "(87)" and insert: "(8)"; in line 16, delete "(98)" and insert: "(9)"; in line 18, delete "(102)" and insert: "(10)"; in line 21, delete "(110)" and insert: "(11)"; in line 23, delete "(121)" and insert: "(12)" and in line 26, delete "(132)" and insert: "(13)".

CORRECTION TO TITLE

On page 1, delete lines 3 through 5 and insert: "SECTION 49-303, IDAHO CODE, TO REVISE AND CLARIFY THE RESTRICTIONS ON ISSUING A LICENSE, PERMIT OR PRIVILEGE TO DRIVE TO HABITUAL DRUNKARDS AND PERSONS ADDICTED TO THE USE OF NARCOTIC DRUGS, AND PERSONS AFFLICTED WITH OR SUFFERING FROM MENTAL DISABILITY OR DISEASE."

SENATE AMENDMENT TO S 1079

AMENDMENT TO SECTION 4

On page 3 of the printed bill, in line 30, following "however," insert: "and except as provided in section 33-201(5), Idaho Code,".

CORRECTION TO TITLE

On page 1, in line 11, following "THAT" insert: ", SUBJECT TO AN EXCEPTION,".

The Committee also has **H 32**, **S 1030**, and **H 20** under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Langhorst, the report was adopted by voice vote.

S 1082, as amended, and **S 1079**, as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

H 54, as amended in the Senate, was filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:05 p.m. until the hour of 10 a.m., Monday, February 19, 2007.

ROBERT L. GEDDES, President Pro Tempore

Attest: RUSTI HORTON, Assistant Secretary